

**IN THE CIRCUIT COURT OF NEW MADRID COUNTY
STATE OF MISSOURI**

STATE ex rel. JEREMIAH W. (JAY))	
NIXON, and the MISSOURI)	
DEPARTMENT OF)	
NATURAL RESOURCES,)	
)	
Plaintiff,)	Case No.
v.)	
)	
GENE SANDLIN AND ROY HODGKISS,)	
)	
Defendants.)	

Serve: Gene Sandlin
711 Greer
Sikeston, MO 63801

Roy Hodgkiss
122 Kay St.
Sikeston, MO 63801

PETITION

____ Comes now Plaintiff, State of Missouri, at the relation of the Missouri
Department of Natural Resources ("the Department"), and alleges and states as follows:

Parties and Venue

1. Jeremiah W. ("Jay") Nixon is the duly elected, qualified and acting
Attorney General of the State of Missouri.
2. The Department is a state agency created under § 10 of the Omnibus State
Reorganization Act of 1974, Appendix B, RSMo, and is authorized to administer the

provisions of the Missouri Air Conservation Law, Chapter 643, RSMo.

3. Venue is proper under § 643.151.3, RSMo 2000.

4. The defendants, Gene Sandlin ("Sandlin") and Roy Hodgkiss ("Hodgkiss") own a parcel of property on New Madrid County Road 824, one mile west of Highway 61, south of Sikeston, Missouri, in New Madrid County, more particularly described as the NE 1/4 NE 1/4 SW 1/4 T25N R13E ("the New Madrid County Road Property"). *See* Exhibit A (general warranty deed) attached hereto and incorporated herein by reference.

Alleged Violations

5. On or about February 10, 2000, defendants open burned or allowed to be open burned tree trunks, tree limbs and vegetation on the New Madrid County Road Property.

6. Defendants do not hold a permit from the Department that would entitle them to burn vegetation or tree trimming waste.

7. Defendants continue to dump or allow the dumping of vegetation, tree trimming, and other waste to occur on the New Madrid County Road Property.

8. Defendants continue to open burn or allow to be open burned vegetation and tree trimming waste on the New Madrid County Road Property.

9. The open burning of vegetation and tree trimming waste is an air contaminant source that releases air contaminants as those terms are defined in § 643.020(4) and (5), RSMo 2000.

10. By open burning vegetation and tree trimming waste, defendants caused or

permitted air pollution by emission of air contaminants from an air contaminant source, in violation of § 643.151.1, RSMo 2000, and 10 CSR 10-3.030, "Open Burning Restrictions."

11. The Department issued Notices of Violation #2733SE and #2734SE to defendants Sandlin and Hodgkiss, respectively, for this violation.

12. Plaintiff has no adequate remedy at law.

13. Plaintiff believes defendants will continue to violate the law in the manner outlined above unless restrained and enjoined by this Court.

14. Section 643.151.3, RSMo 2000, authorizes this Court to impose a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation per day for each day, or part thereof, the violation continues to occur, or both, as the Court may deem proper.

WHEREFORE, Plaintiff prays that this Court:

A) Issue an order enjoining defendants from open burning waste on the New Madrid County Road Property or permitting the open burning of waste on that property.

B) Issue an order enjoining defendants from dumping or depositing vegetation, tree trimming or other waste on the New Madrid County Road Property or permitting others to dump or deposit any vegetation, tree trimming or other waste on the New Madrid County Road Property.

C) Issue an order requiring defendants to clean up all burned residue and all non-burned materials at the New Madrid County Road Property so that the condition of the property comports with Missouri laws and regulations.

D) Issue an order requiring each defendant, within 10 days of this Court's order, to issue a certified check made payable to the New Madrid County Treasurer as Trustee of the New Madrid County School Fund, in the amount of ten thousand dollars (\$10,000.00) per day per violation as and for a civil penalty for the above-mentioned violations.

E) Issue an order assessing the costs of this proceeding against defendants.

F) Issue any other such orders or grant any other such relief that this Court deems just and proper under the circumstances.

Respectfully submitted,

Jeremiah W. (Jay) Nixon
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